

Department of State

§ 123.16

countries that have adopted the IC/DV procedure, the governments of these countries may stamp a triangular symbol on the Import Certificate. This symbol is usually placed on the Import Certificate when the applicant for the Import Certificate (the importer) states either (1) that there is uncertainty whether the items covered by the Import Certificate will be imported into the country issuing the Import Certificate; (2) that he or she knows that the items will not be imported into the country issuing the Import Certificate; or (3) that, if the items are to be imported into the country issuing the Import Certificate, they will subsequently be reexported to another destination. All parties, including the ultimate consignee in the country of ultimate destination, must be shown on the completed Import Certificate.

[58 FR 39299, July 22, 1993, as amended at 71 FR 20541, Apr. 21, 2006]

§ 123.15 Congressional certification pursuant to Section 36(c) of the Arms Export Control Act.

(a) The Arms Export Control Act requires that a certification be provided to the Congress prior to the granting of any license or other approval for transactions, in the amounts described below, involving exports of any defense articles and defense services and for exports of major defense equipment, as defined in § 120.8 of this subchapter. Approvals may not be granted when the Congress has enacted a joint resolution prohibiting the export. Certification is required for any transaction involving:

(1) A license for the export of major defense equipment sold under a contract in the amount of \$14,000,000 or more, or for defense articles and defense services sold under a contract in the amount of \$50,000,000 or more, to any country that is not a member of the North Atlantic Treaty Organization (NATO), or Australia, Israel, Japan, New Zealand, or the Republic of Korea that does not authorize a new sales territory; or

(2) A license for export to a country that is a member country of NATO, or Australia, Israel, Japan, New Zealand, or the Republic of Korea, of major defense equipment sold under a contract in the amount of \$25,000,000 or more, or

for defense articles and defense services sold under a contract in the amount of \$100,000,000 or more, and provided the transfer does not include any other countries; or

(3) A license for export of a firearm controlled under Category I of the United States Munitions List, of this subchapter, in an amount of \$1,000,000 or more.

(b) Unless an emergency exists which requires the final export in the national security interests of the United States, approval may not be granted for any transaction until at least 15 calendar days have elapsed after receipt by the Congress of the certification required by 22 U.S.C. 2776(c)(1) involving NATO, or Australia, Israel, Japan, New Zealand, or the Republic of Korea or at least 30 calendar days have elapsed for any other country; in the case of a license for an export of a commercial communications satellite for launch from, and by nationals of, the Russian Federation, Ukraine, or Kazakhstan, until at least 15 calendar days after the Congress receives such certification.

(c) Persons who intend to export defense articles and defense services pursuant to any exemption in this subchapter under the circumstances described in this section must provide written notification to the Directorate of Defense Trade Controls and include a signed contract and a DSP-83 signed by the applicant, the foreign consignee and the end-user.

[70 FR 34654, June 15, 2005, as amended at 73 FR 38343, Aug. 3, 2009; 77 FR 16598, Mar. 21, 2012]

§ 123.16 Exemptions of general applicability.

(a) The following exemptions apply to exports of unclassified defense articles for which no approval is needed from the Directorate of Defense Trade Controls. These exemptions do not apply to: Proscribed destinations under § 126.1 of this subchapter; exports for which Congressional notification is required (see § 123.15 of this subchapter); MTCR articles; Significant Military Equipment (SME); and may not be used by persons who are generally ineligible